

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

BARBARA ANN TERRY

V.

**TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, ET AL.**

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Case No. 1:10-CV-50

**ORDER ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

The court referred this matter to the Honorable Earl S. Hines, United States magistrate judge, for pretrial proceedings pursuant to a referral order entered on January 29, 2010. The court has received and considered the report of the United States magistrate judge, who recommends that the court dismiss *sua sponte* plaintiff's claims against the sixteen individual coworker defendants because a Title VII claim against individual employees fails to state a claim upon which relief can be granted, and her employer, the Texas Department of Criminal Justice, already is a named defendant.

Plaintiff filed a timely objection to the magistrate judge's recommended disposition. Such objection requires that a district judge of the court make a *de novo* determination of those portions of the magistrate judge's report or specified proposed findings or recommendations to which objections are made. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b)(3).


Plaintiff does not challenge the magistrate judge's legal analysis or his factual findings based on the record before him. Rather, plaintiff's objection is essentially a request that certain witnesses be permitted to testify on her behalf. Pl.'s Obj. to Report and Recommendation, September 16, 2010.

First, the scope of the magistrate judge's analysis did not include the permissibility of witness testimony. Additionally, the magistrate judge's recommendation in no way impacts the ability of any witness to testify should the case go to trial, including any of the sixteen coworkers. And, in any event, the magistrate judge correctly determined that plaintiff failed to state a claim against the sixteen individual coworker defendants because Title VII specifically limits such civil liability to *employers*. See *Grant v. Lone Star Co.*, 21 F.3d 649, 651-53 (5th Cir.), *cert. denied*, 513 U.S. 1015, 115 S.Ct. 574, 130 L.Ed.2d 491 (1994).

Plaintiff's objection is, therefore, **OVERRULED**, and the report of the magistrate judge is **ADOPTED**.

Partial Final Judgment dismissing the individual coworkers and employees will be entered separately.

SIGNED this the **29** day of **September, 2010**.


Thad Heartfield
United States District Judge